

VERDICT GIVEN FAVORING HEIRS OF CUNNINGHAM

Noted Lawsuit Against Martin Costello for Account in Deals in Mines Is Ended

DECISION OF COURT COMES IN JANUARY

Twelve Questions Submitted by the Plaintiff and Ten by Defendant Are Heard by Jury

(Special to Daily Review)
TOMBSTONE, Oct. 1.—A verdict was rendered by the jury in the Cunningham-Costello case, this morning in Tombstone, and this verdict was in favor of the plaintiff on all the questions submitted by counsel in the case. The findings of the jury were unanimous on sixteen of the questions submitted, and on six the jury stood eleven to one.

This case occupied the entire six days of last week, and the arguments of counsel were listened to by the jury yesterday.

Suit One of Equity
The suit is one in equity, wherein the jury was charged with only finding as to the facts, and the verdict was in the shape of answers to a series of questions submitted by counsel for both plaintiff and defendant.

The suit is one brought by the heirs of Paddy Cunningham against the estate of Martin Costello for something over \$500,000, for which judgment was asked because of alleged partnership between Cunningham and Costello in certain mining claims which were sold by Costello.

Twelve questions were submitted to the jury by counsel for plaintiff, and ten by counsel for defendant. The questions and the answers appended by the jury follow:

Questions by Plaintiff

1. "Did Patrick Cunningham, at the time of his death, own a half interest in the Irish Mag, George Washington, Old Republic and Angel mining claims?"
Answer, "yes."

(Questions 2, 3, 4, 5, and 6 were the same as the first, except as to the names of mining claims. The answers were "yes," the jury being unanimous as to questions 2 and 6.)

7. "Did Martin Costello make representations which were false, as alleged, in the reply to Julia Cunningham, with respect to Paddy Cunningham's title to eleven mining claims?"
Answer, "yes."

Relied on Representations

8. "Did, if you find that Martin Costello did make certain false representations, Julia Cunningham rely on said false representations when she signed the receipt?"
Answer, "yes."

9. "Did Martin Costello exercise any undue influence upon Julia Cunningham to induce her to sign the receipts, exhibits 23 and 24, and in signing the same was Julia Cunningham unduly influenced by Martin Costello?"
Answer, "yes."

10. "Did Martin Costello agree to pay to James Reilly 20 per cent of the money received from the sale of the eleven claims mentioned in the complaint?"
Answer, "yes."

11. "Did Martin Costello make any agreement with James Reilly for his services with respect to any of the claims mentioned in the complaint?"
Answer, "yes."

12. "Did Martin Costello, during his lifetime, repudiate or deny that Patrick Cunningham or his heirs owned a half interest in the claims mentioned in the complaint, or the proceeds of the sale thereof?"
Answer, "no."

Questions by Defense

1. Did Cunningham pay any part of the purchase price of the Irish Mag, Old Republic, Irish Mag or George Washington mining claims?"
Answer, "no."

2. Did Cunningham pay any part of the purchase price of the Bellflower and Smuggler claims?"
Answer, "yes."

3. "Did Cunningham deed the Hatty Manchester to Costello under an agreement that he should have a one-half interest?"
Answer, "yes."

4. Was same as No. 3 in regard to half interest in proceeds of sale of Hatty Manchester claim.

The answer was the same.

5. "When Cunningham conveyed to Costello one-half interest in the Senator, Senator No. 2, Wagner, Pride and Gibraltar, was it by reason of an agreement between him and Costello that Costello should patent and sell the claims, and account to Cunningham for one-half of the net proceeds?"
Answer, "yes."

Was Opportunity Offered?

6. "Did Julia Cunningham have an opportunity to read the statement of accounts furnished by Judge Reilly and designated as defendant's exhibit No. 28, before she signed the two receipts designated defendant's exhibits Nos. 23 and 24?"
Answer, "yes."

7. "When Julia Cunningham, in May, 1902, received final payment

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David Bruce Brown Skilled Chauffeur Killed In Machine

Driver and Mechanician Are Thrown from Car and Sportsman Is Dead

MILWAUKEE, Oct. 1.—David Bruce Brown, a wealthy New York sportsman who though only 20 years old was one of the best known automobile race drivers in the country, was killed and his mechanician, Tony Scudalari, was fatally injured at the new Wauwatosa automobile road house today on the eve of the eighth running of the Vanderbilt cup race.

Brown was driving his high-powered Fiat car at ninety miles an hour when his rear left tire blew out and a second later the machine catapulted diagonally across the road into a field and the men were thrown clear of the car, which was hurled high into the air and then smashed into a heap of wreckage.

Brown's skull was fractured and his left leg broken. He also suffered internal injuries.

HARD TO PICK DYNAMITE JURY

Trial at Indianapolis of Men Connected with Los Angeles Times Explosion on

TALESMEN OBDDURATE

INDIANAPOLIS, Oct. 1.—Lines up on which the jury will be chosen for the trial of forty-six defendants accused of complicity in the widespread dynamite conspiracy against the employers of non-union labor were indicated today by the examination of veniremen.

The trial was begun before federal Judge Anderson, and the original number of 54 men indicted, headed by Frank M. Ryan, president of the International Association of Bridge and Structural Iron Workers, was reduced to forty-six. The judge withdrew the charges against three men. One defendant was absent because of a broken leg. Orville McManigal pleaded guilty, and the third defendant was reported "not found." John J. and James B. McNamara, serving terms in California, also were reported "not found."

Veniremen Examined
The veniremen were examined by Senator Kern, William A. Harding for the defense, and District Attorney Miller for the government.

J. M. Hatfield, farmer, a country school teacher, was excused because he said he had an opinion the defendants were guilty.

"Where did you get that opinion?" was asked.

"From the newspapers. I read accounts of the McNamara trial at Los Angeles, and of the grand jury at Indianapolis that indicted these men. It convinced me they were guilty."

"You know, don't you, these defendants were indicted jointly with the McNamaras?"

"Yes, it takes much evidence to overcome my opinion."

Hatfield Firm in Belief
"You say you read about the blowing up of the Los Angeles Times building, the pleas of guilty of the McNamaras and the confession of McManigal, and that you concluded all were guilty of carrying explosives on passenger trains?"

"Yes, that is my belief. It takes evidence to remove that impression," Mr. Hatfield said.

Much questioning was devoted to whether the venireman ever had relations with union labor, or was prejudiced for or against it.

Former banker John Burgess, of Newcastle, Ind., was asked whether William J. Burns, who arrested McManigal and the McNamaras, was now employed by the American Bankers' association, and Mr. Burgess said he did not know.

One man was excused because he had sons who were members of labor unions.

Believes Men Guilty
"Did you ever read McManigal's confession in which he implicates these defendants as being associated with him in carrying dynamite and nitroglycerine about the country?"

Was asked Charles W. Johnson, a farmer.

"Yes, I read it, together with the fact that the grand jury found indictments here. It convinced me that these men were guilty," he answered.

James H. Hurst, another farmer, said, "The government will not have to introduce any evidence to convince me these men are guilty. I am convinced already."

THREATS OF VIOLENCE MADE.

SALEM, Mass., Oct. 1.—Threats of violence if Joseph Etter and Arthur Giovannitti, leaders of the Industrial Workers of the World and Joseph Caruso, on trial here charged with the responsibility for the death of a woman during the Lawrence strike riots, were not liberated were received by the authorities today. Sixty-eight talesmen were questioned without any additions to the jury. William D. Haywood came to Salem today.

LESS WARSHIPS AND MORE LAND IS GREAT NEED

Country Should Develop Homes and Not Build Floating Forts Says Kansas Man

IRRIGATED FARMS GREATER PROBLEM

Part of Money Used for Battleships Should Be Spent for Home Seekers Declares Speaker

SALT LAKE CITY, Oct. 1.—"We need less battleships and more money spent to develop homes for the American people," declared J. R. Case, of Abilene, Kan., before the National Irrigation Congress today. "This nation needs homes more than it needs fighting floating forts," Mr. Case is vice-president of the Trans-Mississippi Commercial congress. He said:

"The national congress should spend part of the money it is putting into battleships and make it possible for our farmers to live on irrigated farms as well as they can in King George's dominion."

Cheap Land Needed
"The cold fact is that no amount of patriotism or sentiment can regulate the movement of population. Men go where they think they can improve their condition, regardless of what orators or newspapers or statesmen may say. The renter class moves on where land is cheap. The shrewd, business-like farmer figures where he can obtain more acres and make more money. The farmer at fifty or sixty cents or sells his farm and moves to town. He thinks it is to his advantage, but it nearly always reduces his income and increases his expenses. It is one of the mistakes of a farmer's life when he goes to a productive farm and thinks he adds to his comfort by living in town."

Farmer's Greatest Occupation
"The farmer and stockman possess the best business occupation in the nation today. With the largest crop production in history, with high prices, with the end of the pioneer period and the disappearance of free land, the chance for the farmer's sons becomes greater each year."

"When the west prospers, the nation prospers. It should do this at any cost—and do it now. Not less than two members of the president's cabinet should be western men, familiar with every condition of western land and western need. This should be a government of all the nation, not a government of the east, with the west forever begging for its share of the benefits. This I believe will come for the west is asserting its strength. The farmer is to have his land. He has an Armageddon of his own, and he proposes to battle for his rights."

ILLINOIS SUFFRAGISTS MEET

GALESBURG, Ill., Oct. 1.—Practically every section of the state is represented in the forty-fourth annual convention of the Illinois Equal Suffrage association, which opened here today for a session extending over two days. One of the features of the opening day was the introduction of the women candidates for positions as trustees of the University of Illinois. Mrs. Alvira Downey of Clinton, the president of the association, presides over the sessions of the convention.

AMERICAN WEDS PEER.

NEW YORK, Oct. 1.—An international love romance somewhat out of the ordinary culminated in the marriage today of Miss Antoinette Heckler, daughter of Mr. and Mrs. August Heckler of this city, and the Hon. Oliver Sylvain Ballou Brett, eldest son and heir of Viscount Escher of England. The wedding took place at Win Coma, the country estate of the bride's parents at Huntington, L. I. The bride had Mrs. Devlincourt Martin as matron of honor and the only attendant, Cyril Stephenson, a countryman of the bridegroom, was best man.

TO INSPECT SULPHUR MINES

LAKE CHARLES, La., Oct. 1.—Many chemists of world-wide renown are now in Louisiana, fresh from their international convention at Washington, and will spend tomorrow at the sulphur mines near this city. These mines produce the sulphur of the United States, and so extensive are the deposits that it is said the entire world could be supplied. The existence of the sulphur bed was discovered some twenty years ago, during exploration for oil, but no successful method of mining it was discovered until ten years ago. The sulphur lies 400 feet underground and is covered by 200 feet of quicksand. The mining is now conducted by a patented process, which consists of melting the sulphur underground by means of superheated steam and hot water into the bed and raising the melted sulphur to the surface by means of compressed air. After the sulphur cools off at the surface it hardens and is broken up into blocks for shipment.

Little Daughter of Mexican Rebel Chief Writes Pathetic Letter To Taft That Papa No Murderer



LOS ANGELES, Cal., Oct. 1.—(Special.) Part of the fortunes of war was her father (into the hands of the United States) as he, her grandfather, Elena, the pretty seventeen-year-old daughter of General Pascual Orozco, who is living with her mother, brothers and sisters, in temporary exile in Los Angeles, has laboriously penned a pathetic letter to President Taft, in which she begs for her grandfather's life and tells the chief executive of this nation that her father is a soldier fighting for his country and not a murderer.

The letter was written on the front steps of her home at Twenty-seventh and Grand Avenue. Her brother sat beside her. Procuring pen and ink and paper the little senorita, who is a

bright child, versed in English as well as Spanish, sat down to write.

Inside the dwelling a boy and an elderly woman, the little son and the mother of General Orozco, lay serious. The boy is said to be pining for his father whose playfellow he was before the war. The elderly woman is broken down under the strain of having a husband and a son in the field for many months. So ill is she that her daughter-in-law fears to tell her of the elder Orozco's arrest by United States troops at the border.

Little Elena's letter was pinned to the president in Spanish for it is in her native tongue that she can best express herself on paper although she speaks the English language almost fluently.

"Dear Mr. President Taft—" she wrote. "My papa is not a murderer. He is a brave soldier fighting for his country. Please don't let the American soldiers give my grandpapa to Mr. Madero for Mr. Madero would shoot him and that would kill poor grandpapa."

The Orozcos have moved four times since coming to Los Angeles and each time at the advice of men close to the general. It is said Mr. Orozco lives in daily dread of the federal commanders of the Mexican army cutting possession of her children in some way. She says she left Mexico when the federalists threatened to put the Orozco family between the firing lines during battle. She says she could lay hands on her father.

U. S. ARMY MEN UNDER ARREST

Officers Responsible for Searching Hotel in Mexico Taken in Custody by Sheriff Wheeler

RACE FEELING UGLY

DOUGLAS, Oct. 1.—As a result of the raid on a local hotel Sunday by American and Mexican secret service men, assisted by a squad of negro troopers of the Ninth U. S. Cavalry, Manuel Cuesta, Mexican consul at Douglas, and Powell Roberts, chief of the Mexican government secret service here, four officers of the United States army were arrested late today. The arrests were made by the county authorities, led by Sheriff Harry Wheeler, who came here from the county seat for the purpose of investigating charges made by D. J. Ganardina, proprietor of the Hotel Mexico. There is general excitement among the Americans and Mexicans here as a result of the raid and subsequent arrests.

Feud Exists

The feud between the military and civil authorities began with the request, some days ago, for the arrest of Joaquin Esquivara, supposed rebel leader. The county officials refused to make the arrest. Sunday night secret service agents, accompanied by a squad of negro soldiers, went to the Hotel Mexico, where it was reported Esquivara was living. Despite the protests of the proprietor of the hotel, who demanded a search warrant, it is alleged that the Mexican secret agents entered the hotel and searched twenty-three rooms.

Charges Assault
Esquivara was not found. Ganardina, the landlord, charges he was assaulted by a soldier. Hearing of this

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350 Talesmen Are Unable To Qualify In Trial Of Labor

Defendants for Murder in Lawrence Troubles on Trial in Salem

SALEM, Oct. 1.—A venire of 350 talesmen, drawn as possible jurors in the trial of Etter, Giovannitti and Caruso, on charges of being concerned in the death of Anna Lopiz last January, was nearly exhausted tonight at the close of the second day of the trial. Judge Quinn is expected to order a new panel of equal size tomorrow. 125 men were examined today, but not one found his way into the jury box, so the two jurymen chosen yesterday have no companions.

Judge Quinn found nearly all the talesmen had formed an opinion as to the guilt or innocence of the defendants, or were so opposed to the death penalty that they declared they could not conscientiously convict a man of the crime which might result in electrocution.

A dozen or more veniremen were passed by the court, but were challenged by prosecution or defense.

PRESIDENT JORDAN TO RETIRE.

STANFORD UNIVERSITY, Oct. 1.—David Starr Jordan, president of Stanford University will resign in 1915 to work for the international peace congress. An announcement to this effect was made on the campus today during the celebration of the twenty-first birthday of the university. By a resolution of the board of trustees president automatically retire at the age of 65. Jordan was 61 last January.

CONGRESSMAN KILLED

FOSTERIA, Ohio, Oct. 1.—Congressman Carl C. Anderson, of this city, was killed tonight when an automobile in which he was riding was overturned near here.

FLINN TELLS OF HIS DONATIONS

Evidence Shows He Contributed \$144,308 to the Roosevelt Campaign in Pennsylvania

OTHER SUMS GIVEN

WASHINGTON, Oct. 1.—William Flinn, of Pittsburgh, Col. Roosevelt's leader of the progressive national committeemen in Pennsylvania and Elton H. Hooker, of New York, treasurer of the progressive national committee, gave the senate campaign expenditures committee some inside facts today about the primary expenses of the Roosevelt campaign for the republican nomination at Chicago.

Mr. Flinn answered the charges of Senator Penrose made in August that Flinn offered a million to him and Israel W. Durham, in 1904 for the Pennsylvania senatorial appointment to succeed M. S. Quay; that in the same fight Mr. Flinn exchanged telegrams with John D. Archbold, of the Standard Oil company, asking his support.

Says Penrose Lied.
The Pittsburgh man said that if Penrose made the first statement, "he lied." As to the other he produced the J. G. Spain of Pittsburgh, who testified that he "thought" he had signed Flinn's name to a telegram to Mr. Archbold on June 1, 1904; that he did not know Flinn handled the telegrams which Archbold attempted to secure for the Standard Oil's influence in Flinn's support.

Prodded by Senator Penrose, of Ohio, he also demanded the specification where Flinn admitted having written an agreement in January, 1896, in which Quay, J. O. Brown and Flinn proposed to divide the federal local patronage in Pennsylvania. He declared he had "gold-bricked"

YAVAPAI COUNTY EXCEEDS POWER IN CUTTING TAX

Supreme Court Holds Board of Equalization Must Stand by Earlier Levy Reduction

UNITED VERDE TO PAY ASSESSMENT

High Tribunal Decides When Rate Fixed Once It Cannot Again Make Another Imposition

The decision of the Arizona supreme court in the case of the state as appellant, against the board of supervisors of Yavapai county, respondents, was handed down yesterday in Phoenix. The decision was signed by Chief Justice Alfred Franklin, and by Associate Justices Henry D. Ross and D. L. Cunningham.

This case has been watched with much interest throughout the state and is one of much importance, settling as it does, so far as the state is concerned, the powers of county boards of equalization.

Case One of Appeal.

The case in question was the appeal of the state from the decision of the superior court of Yavapai county in the tax case arising over the reduction of the United Verde Copper company's assessment by the Yavapai board of supervisors.

It appears that on the third Monday in June, the assessor of Yavapai county duly assessed the property of the copper company. On June 20, the board of county supervisors of Yavapai county, sitting as a board of equalization, heard the copper company's arguments and reduced the assessment 25 per cent below that figure fixed by the county assessor. That immediately afterwards the clerk of the county returned this new assessment to the state board of equalization and to the state auditor, as provided by the laws of the state of Arizona.

Tax Rate Fixed.

Between the 14th and the 19th days of August, the state board of equalization fixed the tax rate for state purposes, based on the abstracts of the assessment rolls as returned to them by the different county boards of equalization, after their July meetings. Among the assessment rolls was the Yavapai roll, and contained the assessment of the United Verde property.

On the 19th of August, the board of supervisors of Yavapai county, sitting as a board of equalization, issued an order that all the producing patented mines belonging to the United Verde Copper company, be reduced to a valuation equal to 50 per cent of the gross production of mining claims.

No Right to Cut Levy

It was the contention of the state that the board of supervisors, having once granted a reduction in the copper company's assessment, that the board had no right to again reduce the assessment after it had been passed upon by the state board and after that board had made its tax rate for state purposes upon that valuation of all property. The state contended that the Yavapai board exhausted its power to make any other or further order, revoking, changing or modifying the order of July 20. The county board contended that it had the same right at the August meeting to change the order that it had at the July meeting.

Language Interpreted

These varying conditions grew out of certain language used in Paragraphs 3867, 3868 and 2870, of the Revised Statutes of 1901, Territory of Arizona. The paragraphs are quoted in the decision, or at least those parts that are applicable thereto.

These respondents in the case, the board of supervisors of Yavapai county, insisted that a mandamus would not lie in the case, but the supreme court decided that the contention was based on the assumption that the order of the board at its August meeting was made with full power to act. The court decided that the board had no power to act in the case at its August meeting, and remarked in the decision that "it follows as a plain duty that the board of supervisors should have obeyed the July order and caused its clerk to carry on to the assessment roll the valuation as fixed by the board of equalization at its July meeting."

Says He Gold-Bricked Quay.

Quay; that he never signed nor intended to sign an agreement; that he had written it only to ally Quay's opposition to the republican candidate for mayor of Pittsburgh. The investigation brought out that Flinn contributed \$144,308.25 to Col. Roosevelt's republican campaign in Pennsylvania.

The records showed George W. Perkins had given \$15,000 to New York and \$22,500 to the national campaign; Frank A. Munsey \$15,000 to New York and \$19,000 to the national campaign; D. R. Hanna \$25,000 to the national campaign.

WEATHER PREDICTION.

ARIZONA—Local rains Wednesday or Thursday. Cooler Wednesday in the central and southwest portions.